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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/509,876	04/04/2005	Marc Joye	1032326-000285	4960
	7590 04/30/200 INGERSOLL & ROOI	EXAMINER		
POST OFFICE	BOX 1404	REVAK, CHRISTOPHER A		
ALEXANDRIA, VA 22313-1404		ART UNIT	PAPER NUMBER	
			2431	
			NOTIFICATION DATE	DELIVERY MODE
			04/30/2009	ELECTRONIC

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Notice of the Office communication was sent electronically on above-indicated "Notification Date" to the following e-mail address(es):

ADIPFDD@bipc.com

1) Responsive to communication(s) filed on 24 December 2008. 2a							
Examiner		Application No.	Applicant(s)				
Christopher A. Revak 2431 - The MAILING DATE of this communication appears on the cover sheet with the correspondence address - Period for Reply A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER. FROM THE MAILING DATE OF THIS COMMUNICATION. HIND period for regly is specified above, the macram-shabber priorid old player and set longuistic Stephen sharp sharp to the specification of the communication. HIND period for regly is specified above, the macram-shabber priorid old player and set longuistic Stephen sharp sharp to the specification of the spec		10/509,876	JOYE ET AL.				
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a) All b) Some * c) None of: 1. Certified copies of the priority documents have been received. 2. Certified copies of the priority documents have been received in Application No 3. Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) Notice of References Cited (PTO-892) 2) Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) Information Disclosure Statement(s) (PTO/SB/08) 5) Notice of Informal Patent Application	Priority under 35 U.S.C. § 119						
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2. ☐ Certified copies of the priority documents have been received in Application No 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)). * See the attached detailed Office action for a list of the certified copies not received. Attachment(s) 1) ☑ Notice of References Cited (PTO-892) 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 3) ☐ Information Disclosure Statement(s) (PTO/SB/08) 4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date 5) ☐ Notice of Informal Patent Application	,— ,— ,—						
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DETAILED ACTION

Response to Arguments

1. Applicant's arguments with respect to claims 2-24 have been considered but are moot in view of the new grounds of rejection.

Claim Rejections - 35 USC § 101

2. 35 U.S.C. 101 reads as follows:

Whoever invents or discovers any new and useful process, machine, manufacture, or composition of matter, or any new and useful improvement thereof, may obtain a patent therefor, subject to the conditions and requirements of this title.

3. Claims 2-24 are rejected under 35 U.S.C. 101 because the claimed invention is directed to non-statutory subject matter.

Claims 2-24 are rejected under 35 U.S.C. 101 as not falling within one of the four statutory categories of invention. While the claims recite a series of steps or acts to be performed, a statutory "process" under 35 U.S.C. 101 must (1) be tied to particular machine, or (2) transform underlying subject matter (such as an article or material) to a different state or thing. See page 10 of In Re Bilski 88 USPQ2d 1385. The instant claims are neither positively tied to a particular machine that accomplishes the claimed method steps nor transform underlying subject matter, and therefore do not qualify as a statutory process. The claimed method including steps of selection of blocks of instructions which is broad enough that the claim could be completely performed mentally, verbally or without a machine nor is any transformation apparent. The examiner notes that the preamble of claim 21 recites of a "method for implementing

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cryptographic calculation in an electronic device" which is intended use since no positive steps of the device is recited in the body of the claim.

Claim Rejections - 35 USC § 102

4. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless -

- (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
- 5. Claims are rejected under 35 U.S.C. 102(b) as being anticipated by Kocher et al, U.S. Patent 6,278,783.

As per claim 2, it is taught wherein the predefined number is variable from one predefined block of instructions to another (col. 6, lines 28-63).

As per claim 3, it is disclosed wherein the common set of instructions comprises at least one calculation instruction that is equivalent to a calculation instruction of each predefined block in the context of a covert channel attack (col. 2, lines 10-24).

As per claim 4, it is taught wherein the common set of instructions also comprises an instruction to update a loop pointer indicating a number of executions already performed with the common set of instructions (col. 13, lines 9-41).

As per claim 5, it is disclosed wherein the common set of instructions also comprises an instruction to update a state pointer indicating whether the predefined number has been reached (col. 13, lines 9-41).

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As per claim 6, it is taught wherein the value of the loop pointer is a function of the value of the input variable and/or number of instructions in the selected block of instructions (col. 13, lines 9-41).

As per claim 21, it is taught of a method for implementing a cryptographic calculation in an electronic device, comprising the following steps selecting a block of instructions from amongst a plurality of predefined blocks of instructions, as a function of an input variable; and executing a set of instructions that is common to the plurality of predefined blocks of instructions a predefined number of times, wherein said predefined number is associated with the selected block of instructions (col. 1, line 66 through col. 2, line 43; col. 6, lines 28-63).

As per claim 22, it is disclosed of wherein the value of the state pointer is a function of the value of the input variable and/or of the number of instructions in the selected block of instructions (col. 13, lines 9-41).

As per claim 23, it is taught wherein said several inputs comprise a matrix (col. 2, line 43 through col. 3, line 9).

As per claim 24, it is disclosed wherein said electronic device is a chip card (col. 14, lines 1-8).

Allowable Subject Matter

6. Claims 7-20 and 23 are objected to as being dependent upon a rejected base claim, but would be allowable if rewritten in independent form including all of the limitations of the base claim and any intervening claims.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher A. Revak whose telephone number is 571-272-3794. The examiner can normally be reached on Monday-Thursday, 9:00am-5:00pm.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Ayaz Sheikh can be reached on 517-272-3795. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

/Christopher A. Revak/ Primary Examiner, Art Unit 2431